ELECTION

Applicant elects, with traverse, what the Examiner has characterized as "Invention II", deemed drawn to a system for enabling a software option at a local device, and corresponding to claims 10-23, 25, 26, and 28.

REMARKS

The Examiner has identified two 'inventions' in the pending claims. The Examiner's classification of the 'inventions' include Group I consisting of claims 1, 4-9, and 27 drawn to a method for enabling a software option at a device located remotely from the workstation that is requesting the enablement and classified by the Examiner in class 705, subclass 56, and Group II consisting of claims 10-23, 25, 26, and 28 drawn to a system for enabling a software option at a local device and classified by the Examiner in class 726, subclass 17.

In setting forth the restriction, the Examiner identified Inventions I and II as being related as a process and apparatus for its practice and cited to MPEP 806.05(e) as grounds for issuing the restriction. *See Restriction Requirement,* January 10, 2011, p. 3. MPEP 806.05(e) sets forth that "[p]rocess and apparatus for its practice can be shown to be distinct inventions, if either or both of the following can be shown: (A) that the process *as claimed* can be practiced by another materially different apparatus or by hand; or (B) that the apparatus *as claimed* can be used to practice another materially different process."

As a basis for the restriction, the Examiner thus stated that "in this case the invention in group I is practiced by a materially different system from group II." *Restriction Requirement,* supra at 3. The Examiner further stated that "group I's method recited that the machine which requests the activation be at a 'location remote from' the machine that receives the activation, while group II is directed to a system where the machine requesting activation be located at the same 'subscribing station' as the equipment that is to be activated." *Id.*

Applicant respectfully disagrees with the Examiner's basis for the restriction. That is, Applicant believes that the Examiner's analysis of the inventions of Group I and Group II does not satisfy the burden set forth in MPEP §806.05(e). That is, MPEP §806.05(e) sets forth that "[t]he burden is on the examiner to provide reasonable examples that recite material differences." (emphasis added) In merely stating that the method of Group I recites "the machine which requests the option-enabling request be at a 'location remote from' the machine that receives the activation," whereas the product of Group II "is directed to a system where the machine requesting activation be located at the same 'subscribing station' as the equipment that is to be

activated," the Examiner has failed to "provide reasonable examples that recite material differences." That is, even though the process of Group I and the product of Group II do not include identical claim limitations therein, the process and product are not necessarily a "materially different" process and apparatus for its practice, as required for restriction under MPEP §806.05(e). In fact, the option-enabling request of the process of Group I, as set forth in claims 1 and 4-9, is similar to the option-enabling request of the product of Group II, as set forth in claims 10-23, 25, 26, and 28. That is, the option-enabling request in each of Groups I and II is set forth as activating an inactive option in equipment at a subscribing station.

In light of the above, Applicant believes that the Examiner has failed to show that the inventions of Groups I and II are a materially different "process and apparatus for its practice" under MPEP §806.05(e). Applicant therefore respectfully requests withdrawal of the restriction and rejoinder of Groups I and II.

For all these reasons, Applicant respectfully requests rejoinder of all claims, of each group. The Examiner is invited to call the undersigned to discuss this Election or any other matters regarding this application to further prosecution.

Respectfully submitted,

/Kevin R. Rosin/

Kevin R. Rosin
Registration No. 55,584
Phone 262-268-8100 ext. 15
krr@zpspatents.com

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P.O. ADDRESS:
Ziolkowski Patent Solutions Group, SC
136 South Wisconsin Street
Port Washington, WI 53074
262-268-8100